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COHEN MILSTEIN

February 1, 2022

VIA ECF

Application GRANTED. The Clerk of Court is respectfully directed to close ECF No. 515.

SO ORDERED 2/2/2022


SARAH L. CAVE
United States Magistrate Judge

Magistrate Judge Sarah L. Cave
Daniel Patrick Moynihan Courthouse
500 Pearl Street, Room 1670
New York, NY 10007

Re: *Iowa Pub. Emps. ' Ret. Sys. et al. v. Bank of Am. Corp. et al.*, No. 17-cv-6221 (KPF-SLC)

Dear Judge Cave:

Pursuant to ECF 512, Plaintiffs submit redacted and public copies of Plaintiffs' sur-sur-reply brief and materials with the parties' proposed redactions and designations.

Section 9 of the Protective Order (Dkt. Nos. 150, 228) provides that for any filing that quotes or refers to discovery material that has been designated Confidential, Highly Confidential, or Highly Confidential Data, the party "shall request to file such documents or portions thereof containing or making reference to such material or information in redacted form or under seal." Consistent with the process this Court approved for such requests (Dkt. No. 408), and prior approvals (Dkt. No. 443) **the Parties now move for sealing or redaction of certain materials filed with Plaintiffs' Sur-Sur-Reply in Further Support of Plaintiffs' Class Certification Motion.** The Parties' justifications for sealing or redacting those materials under *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), and its progeny are as follows.

Plaintiffs' Justifications and Designations

Plaintiffs' sur-sur-reply papers quote from, discuss, and refer to discovery material produced by Plaintiffs and Third-Parties subject to confidentiality designations, which include trade secrets, other confidential research, development, or commercial information, or other private or competitively sensitive information, including personal data. Accordingly, **Plaintiffs request on behalf of themselves and Third-Parties that the marked portions of Exhibit 179 (ECF 514-1) to the Declaration of Daniel L. Brockett dated January 18, 2022 ("Brockett Sur-Sur-Reply Declaration"), be filed in redacted form.**

Plaintiffs take no position with respect to Defendants' redaction and under-seal requests beyond those which we request ourselves, and reserve all rights under the Protective Orders.

Defendants' Justifications and Designations

Plaintiffs' sur-sur-reply memorandum and supporting expert report quote from, discuss, and make reference to documents and data produced by Defendants and designated "Confidential" and "Highly Confidential" under the Parties' Protective Orders (Dkt. No. 150, 228). Such Confidential or Highly Confidential materials include trade secrets, other confidential research, development, or commercial information, and other private or competitively sensitive information, including personal data. Accordingly, Defendants provided Plaintiffs with proposed redactions to Plaintiffs' memorandum and supporting expert report, and Plaintiffs have had the opportunity to review the proposed redactions. Defendants request that Plaintiffs' sur-sur reply memorandum and Exhibit 179 to the Declaration of Daniel L. Brockett in Further Support of Plaintiffs' Motion for Class Certification and Appointment of Class Counsel be filed in redacted form.

Plaintiffs' sur-sur-reply memorandum and supporting expert report also quote from, discuss, and refer to the substance of discovery material produced by Third-Parties subject to confidentiality designations, which likewise include trade secrets, other confidential research, development, or commercial information, or other private or competitively sensitive information, including personal data, or make reference to non-parties to the litigation. Defendants have proposed, and Plaintiffs have had the opportunity to review, filing such materials with redactions consistent with the designations made by Third-Parties and *Lugosch*. Accordingly, **Defendants request on their behalf that marked portions of Plaintiffs' sur-sur-reply memorandum and Exhibit 179 to the Declaration of Daniel L. Brockett in Further Support of Plaintiffs' Motion for Class Certification and Appointment of Class Counsel be filed in redacted form.**

Respectfully submitted,

/s/ Michael B. Eisenkraft

Michael B. Eisenkraft
COHEN MILSTEIN SELLERS & TOLL
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/s/ Daniel L. Brockett

Daniel L. Brockett
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